



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-101

APR 26 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

The Honorable Hyrum Johnson
Mayor
City of Driggs
60 South Main Street
Driggs, Idaho 83422

Re: City of Driggs, Idaho Wastewater Treatment Plant
Compliance Order on Consent
Docket No. CWA-10-2018-0206

Dear Mayor Johnson:

Please find enclosed a copy of the Compliance Order on Consent (Order) between the U.S. Environmental Protection Agency (EPA) and the City of Driggs (City) issued pursuant to Sections 308 and 309(a) of the Clean Water Act, 33 U.S.C. §§ 1318 and 1319(a). The Order requires the City to identify and complete modifications and corrective actions to the facility, and come into compliance with the effluent limitations in the National Pollutant Discharge Elimination System, Permit ID0020141, within 24 months of the effective date of the Order.

Should you have any questions regarding this letter or the enclosed Order, please contact David Domingo, of my staff, at (206) 553-2456 or domingo.david@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. J. Kowalski".

Edward J. Kowalski
Director

Enclosure

1. Compliance Order on Consent

cc w/enc: Mr. Tyler Fortunati
Compliance, Inspection, and Enforcement Lead
Idaho Department of Environmental Quality
Tyler.Fortunati@deq.idaho.gov

Mr. Erick Neher
Regional Administrator, Idaho Falls Office
Idaho Department of Environmental Quality
erick.neher@deq.idaho.gov

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CITY OF DRIGGS,
Driggs, Idaho

Respondent.

DOCKET NO. CWA-10-2018-0206

**COMPLIANCE ORDER ON
CONSENT**

I. STATUTORY AUTHORITY

1.1. This Compliance Order on Consent (“Order”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Sections 308 and 309(a) of the Clean Water CWA (“CWA”), 33 U.S.C. §§ 1318, 1319(a). This authority has been delegated to the Regional Administrator for EPA Region 10 and has been redelegated to the Director of the Office of Compliance and Enforcement.

1.2. Respondent waives any and all claims of relief, and otherwise available rights to judicial or administrative review or other remedies which Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Order, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701- 706.

II. FINDINGS AND CONCLUSIONS
Statutory and Regulatory Background

2.1. The objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. CWA § 101(a), 33 U.S.C. § 1251(a).

2.2. The CWA prohibits the “discharge of any pollutant by any person” except, among others, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit. CWA § 301(a), 33 U.S.C. § 1311(a); CWA § 402, 33 U.S.C. § 1342.

2.2.1. The CWA defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source” and defines “navigable waters” to include “waters of the United States.” CWA § 502(7), (12), 33 U.S.C. § 1362(7), (12).

2.2.2. The CWA defines a “pollutant” to include “industrial, municipal, and agricultural waste discharged into water.” CWA § 502(6), 33 U.S.C. § 1362(6).

2.2.3. The CWA defines “point source” to include, among others, “any pipe, ditch, channel, tunnel, conduit, well, discrete fissure [or] container ... from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14).

2.2.4. Waters of the United States include waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters; the territorial seas; and all impoundments and tributaries to those waters. 40 C.F.R. § 122.2.

2.3. The Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of any pollutant into the waters of the United States upon such specific terms and conditions as the Administrator may prescribe. CWA § 402(a), 33 U.S.C. § 1342(a).

2.4. Respondent is a “municipality” organized under the laws of the State of Idaho, with jurisdiction over the disposal of sewage, industrial wastes, or other wastes, and is a “person” within the meaning of the CWA. CWA § 502(4)-(5), 33 U.S.C. § 1362(4)-(5).

2.5. Respondent owns and operates the Teton Regional Wastewater Treatment Facility (“Facility”) located on West Bates Road in Driggs, Idaho.

2.6. At all times relevant to this action, Respondent was authorized to discharge municipal wastewater containing pollutants from the Facility pursuant to NPDES Permit No. ID-

002014-1 (“Permit”). The Permit became effective on January 1, 2011 and expired on December 31, 2015. Respondent submitted an NPDES permit application, which EPA received on July 10, 2015, and the Permit has been administratively extended pursuant to 40 C.F.R. § 122.6.

2.7. The Facility discharges pollutants from Outfall 001 into an unnamed tributary, which discharges into Woods Creek. Outfall 001 is a “point source.” 40 C.F.R. § 122.2.

2.8. Woods Creek flows into the Teton River, which flows into the Henrys Fork, which flows into the Snake River, which flows into the Columbia River, which flows into the Pacific Ocean. Woods Creek is a tributary to an interstate water body that is subject to interstate commerce. As such, Woods Creek is a “navigable water,” and a “water of the United States.” CWA § 502(7), 33 U.S.C. § 1362(7); 40 C.F.R. § 122.2.

2.9. Sections I.B.4 and I.B, Table 1 of the Permit establish effluent limits for the discharges from Outfall 001. These effluent limits include 5-day biochemical oxygen demand (“BOD₅”), *Escherichia coli* (“*E. coli*”), total ammonia, total residual chlorine, and total suspended solids (“TSS”).

2.10. Sections I.B.4 and III.B of the Permit requires Respondent to summarize monitoring results for the Facility each month in a Discharge Monitoring Report (“DMR”).

2.11. Each failure to comply with the effluent limitations and monitoring requirements specified in the Permit, issued pursuant to Section 402 of the CWA, is a violation of the terms and conditions of the Permit, and is a violation of Section 301(a) of the CWA. CWA § 301(a), 33 U.S.C. § 1311(a); CWA § 402, 33 U.S.C. § 1342.

2.12. Respondent’s DMRs from November 2012 through June 2017 indicate the Facility had 3,722 violations of the effluent limits set forth in the Permit.

2.13. Section I.B, Table 1 of the Permit prohibits the Facility from discharges in which

the concentration of *E. coli* exceeds 406 colonies per 100 milliliters in any single sample or analysis. Respondent violated this permit condition three times between November 2012 through June 2017, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
January 2013	406 / 100 mL	2,420 / 100 mL	1
June 2013	406 / 100 mL	2,420 / 100 mL	1
August 2015	406 / 100 mL	435 / 100 mL	1

2.14. Section I.B, Table 1 of the Permit prohibits the Facility from discharges in which the monthly geometric mean concentration of *E. coli* exceeds 126 colonies per 100 milliliters. Respondent violated this permit condition four times between November 2012 through June 2017, for 120 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
January 2013	126 / 100 mL	698 / 100 mL	31
February 2013	126 / 100 mL	185 / 100 mL	28
May 2013	126 / 100 mL	152 / 100 mL	31
June 2013	126 / 100 mL	2,420 / 100 mL	30

2.15. Section I.B, Table 1 of the prohibits the Facility from discharges in which the average monthly concentration of BOD₅ exceeds 45 milligrams per liter. Respondent violated this permit condition eight times between November 2012 through June 2017, for 244 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
January 2013	45 mg/L	179.5 mg/L	31
February 2013	45 mg/L	113.2 mg/L	30
March 2013	45 mg/L	118.8 mg/L	31
April 2013	45 mg/L	101.7 mg/L	30
May 2013	45 mg/L	102 mg/L	31

Month of Violation		Permit Limit	Value Reported	Number of Violations
June	2013	45 mg/L	88.6 mg/L	30
August	2013	45 mg/L	67.9 mg/L	31
April	2017	45 mg/L	48.9 mg/L	30

2.16. Section I.B, Table 1 of the Permit prohibits the Facility from discharges in which the average monthly loading of BOD₅ exceeds 225 pounds per day. Respondent violated this permit condition seven times between November 2012 through June 2017, for 212 violations, as follows:

Month of Violation		Permit Limit	Value Reported	Number of Violations
January	2013	225 lbs/day	507 lbs/day	31
February	2013	225 lbs/day	290.77 lbs/day	28
March	2013	225 lbs/day	343.8 lbs/day	31
April	2013	225 lbs/day	414.75 lbs/day	30
May	2013	225 lbs/day	353.03 lbs/day	31
June	2013	225 lbs/day	351.72 lbs/day	30
August	2013	225 lbs/day	226.51 lbs/day	31

2.17. Section I.B.4 of the Permit prohibits the Facility from discharges in which the monthly average effluent concentration of BOD₅ exceeds 35% of the monthly average influent concentration of BOD₅. This corresponds to the minimum of 65% removal requirement shown in Section I.B, Table 1 of the Permit. Respondent violated this permit condition five times between November 2012 through June 2017, for 151 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
January 2013	65% removal	36% removal	31
February 2013	65% removal	58% removal	28
March 2013	65% removal	54% removal	31
May 2013	65% removal	49% removal	31
June 2013	65% removal	63% removal	30

2.18. Section I.B, Table 1 of the Permit prohibits the Facility from discharges in which the average monthly concentration of TSS exceeds 45 milligrams per liter. Respondent violated this permit condition two times between November 2012 through June 2017, for 62 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
December 2012	45 mg/L	49 mg/L	31
October 2013	45 mg/L	47 mg/L	31

2.19. Section 1.B.4 of the Permit prohibits the Facility from discharges in which the monthly average effluent concentration of TSS exceeds 35% of the monthly average influent concentration of TSS. This corresponds to the minimum of 65% removal requirement shown in Section I.B, Table 1 of the Permit. Respondent violated this permit condition three times between November 2012 through June 2017, for 91 violations, as follows:

Month of Violation		Permit Limit	Value Reported	Number of Violations
June	2013	65% removal	64% removal	30
July	2013	65% removal	60% removal	31
June	2017	65% removal	60% removal	30

2.20. Section I.B, Table 1 of the Permit prohibits the Facility from discharging more than 0.089 pounds per day of TRC. Respondent violated this permit condition in December 2012, when Respondent discharged 0.94 pounds per day of TRC, for 31 violations.

2.21. Sections I.B, Table 1 and I.D of the Permit prohibit the discharge of pollutants from the Facility in which the average monthly concentration of ammonia exceeds 23 milligrams of nitrogen per liter up until October 1, 2013, and prohibits the discharge of pollutants from the Facility in which the average monthly concentration of ammonia exceeds 0.084 milligrams of nitrogen per liter on and after October 1, 2013. Respondent violated this permit condition 51 times between November 2012 through June 2017, for 1,549 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
November 2012	23 mg/L	26.22 mg/L	30
December 2012	23 mg/L	32.36 mg/L	31
January 2013	23 mg/L	36.15 mg/L	31
February 2013	23 mg/L	33.43 mg/L	28
March 2013	23 mg/L	30.89 mg/L	31
April 2013	23 mg/L	31.39 mg/L	30
May 2013	23 mg/L	30.18 mg/L	31
June 2013	23 mg/L	29.13 mg/L	30
August 2013	23 mg/L	36.36 mg/L	31
September 2013	23 mg/L	23.24 mg/L	30
October 2013	0.84 mg/L	21.490 mg/L	31
November 2013	0.84 mg/L	14.100 mg/L	30
December 2013	0.84 mg/L	6.420 mg/L	31
January 2014	0.84 mg/L	20.660 mg/L	31
February 2014	0.84 mg/L	23.270 mg/L	28
March 2014	0.84 mg/L	24.710 mg/L	31
April 2014	0.84 mg/L	30.18 mg/L	30
May 2014	0.84 mg/L	34.99 mg/L	31
June 2014	0.84 mg/L	23.57 mg/L	30
August 2014	0.84 mg/L	17.77 mg/L	31
September 2014	0.84 mg/L	24.74 mg/L	30
October 2014	0.84 mg/L	33.58 mg/L	31
November 2014	0.84 mg/L	12.53 mg/L	30
December 2014	0.84 mg/L	1.88 mg/L	31
January 2015	0.84 mg/L	3.32 mg/L	31
February 2015	0.84 mg/L	27.44 mg/L	28
March 2015	0.84 mg/L	29.08 mg/L	31
April 2015	0.84 mg/L	29.15 mg/L	30
May 2015	0.84 mg/L	30.90 mg/L	31
June 2015	0.84 mg/L	20.95 mg/L	30
July 2015	0.84 mg/L	6.86 mg/L	31
August 2015	0.84 mg/L	1.06 mg/L	31
September 2015	0.84 mg/L	0.88 mg/L	30

Month of Violation		Permit Limit	Value Reported	Number of Violations
October	2015	0.84 mg/L	6.11 mg/L	31
November	2015	0.84 mg/L	11.10 mg/L	30
December	2015	0.84 mg/L	10.95 mg/L	31
January	2016	0.84 mg/L	20.85 mg/L	31
February	2016	0.84 mg/L	23.90 mg/L	29
March	2016	0.84 mg/L	24.05 mg/L	31
April	2016	0.84 mg/L	19.55 mg/L	30
June	2016	0.84 mg/L	7.55 mg/L	30
July	2016	0.84 mg/L	22.85 mg/L	31
August	2016	0.84 mg/L	15.20 mg/L	31
September	2016	0.84 mg/L	8.35 mg/L	30
October	2016	0.84 mg/L	11.90 mg/L	31
November	2016	0.84 mg/L	11.87 mg/L	30
December	2016	0.84 mg/L	6.67 mg/L	31
January	2017	0.84 mg/L	1.82 mg/L	31
February	2017	0.84 mg/L	1.26 mg/L	28
March	2017	0.84 mg/L	3.30 mg/L	31
June	2017	0.84 mg/L	4.11 mg/L	30

2.22. Sections I.B, Table 1 and I.D of the Permit prohibit the discharge of pollutants from the Facility in which the average monthly daily loading of ammonia exceeds 115 pounds of nitrogen per day up until October 1, 2013, and prohibits the discharge of pollutants from the Facility in which the average monthly daily loading of ammonia exceeds 4.2 pounds of nitrogen per day on and after October 1, 2013. Respondent violated this permit condition 43 times between November 2012 through June 2017, for 1,307 violations, as follows:

Month of Violation		Permit Limit	Value Reported	Number of Violations
April	2013	115 lbs/day	128.01 lbs/day	30
June	2013	115 lbs/day	115.64 lbs/day	30
August	2013	115 lbs/day	121.29 lbs/day	31
October	2013	4.2 lbs/day	53.05 lbs/day	31
November	2013	4.2 lbs/day	29.63 lbs/day	30
December	2013	4.2 lbs/day	21.14 lbs/day	31
January	2014	4.2 lbs/day	68.06 lbs/day	31
February	2014	4.2 lbs/day	81.12 lbs/day	28
March	2014	4.2 lbs/day	102.21 lbs/day	31
April	2014	4.2 lbs/day	22.71 lbs/day	30
May	2014	4.2 lbs/day	155.83 lbs/day	31
June	2014	4.2 lbs/day	132.68 lbs/day	30
July	2014	4.2 lbs/day	88.32 lbs/day	31
August	2014	4.2 lbs/day	119.25 lbs/day	31
September	2014	4.2 lbs/day	112.86 lbs/day	30
October	2014	4.2 lbs/day	37.51 lbs/day	31
November	2014	4.2 lbs/day	4.89 lbs/day	30
December	2014	4.2 lbs/day	7.55 lbs/day	31
January	2015	4.2 lbs/day	75.52 lbs/day	31
February	2015	4.2 lbs/day	50.45 lbs/day	28
March	2015	4.2 lbs/day	54.94 lbs/day	31
April	2015	4.2 lbs/day	29.66 lbs/day	30
May	2015	4.2 lbs/day	44.43 lbs/day	31
June	2015	4.2 lbs/day	54.53 lbs/day	30
July	2015	4.2 lbs/day	4.30 lbs/day	31
October	2015	4.2 lbs/day	14.12 lbs/day	31
November	2015	4.2 lbs/day	28.13 lbs/day	30
December	2015	4.2 lbs/day	61.85 lbs/day	31
January	2016	4.2 lbs/day	55.63 lbs/day	31
February	2016	4.2 lbs/day	67.35 lbs/day	29
March	2016	4.2 lbs/day	64.54 lbs/day	31
April	2016	4.2 lbs/day	57.43 lbs/day	30
June	2016	4.2 lbs/day	51.52 lbs/day	30
July	2016	4.2 lbs/day	86.41 lbs/day	31
August	2016	4.2 lbs/day	40.27 lbs/day	31
September	2016	4.2 lbs/day	22.07 lbs/day	30

Month of Violation	Permit Limit	Value Reported	Number of Violations
October 2016	4.2 lbs/day	33.60 lbs/day	31
November 2016	4.2 lbs/day	15.99 lbs/day	30
December 2016	4.2 lbs/day	11.60 lbs/day	31
January 2017	4.2 lbs/day	7.60 lbs/day	31
February 2017	4.2 lbs/day	10.54 lbs/day	28
March 2017	4.2 lbs/day	27.49 lbs/day	31
June 2017	4.2 lbs/day	34.27 lbs/day	30

2.23. Sections I.B, Table 1 and I.D of the Permit prohibit the discharge of pollutants from the Facility in which the maximum daily concentration of ammonia exceeds 1.68 milligrams of nitrogen per liter on and after October 1, 2013. Respondent violated this permit condition 36 times between October 2013 through June 2017, for 36 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
October 2013	1.68 mg/L	5.37 mg/L	1
November 2013	1.68 mg/L	3.52 mg/L	1
January 2014	1.68 mg/L	5.16 mg/L	1
February 2014	1.68 mg/L	5.81 mg/L	1
March 2014	1.68 mg/L	6.17 mg/L	1
April 2014	1.68 mg/L	7.54 mg/L	1
May 2014	1.68 mg/L	8.74 mg/L	1
June 2014	1.68 mg/L	5.89 mg/L	1
July 2014	1.68 mg/L	4.44 mg/L	1
August 2014	1.68 mg/L	6.18 mg/L	1
September 2014	1.68 mg/L	8.39 mg/L	1
October 2014	1.68 mg/L	3.13 mg/L	1
January 2015	1.68 mg/L	6.86 mg/L	1
February 2015	1.68 mg/L	7.27 mg/L	1
March 2015	1.68 mg/L	7.28 mg/L	1
April 2015	1.68 mg/L	7.72 mg/L	1
May 2015	1.68 mg/L	15.23 mg/L	1
June 2015	1.68 mg/L	1.72 mg/L	1

Month of Violation	Permit Limit	Value Reported	Number of Violations
November 2015	1.68 mg/L	2.77 mg/L	1
December 2015	1.68 mg/L	2.74 mg/L	1
January 2016	1.68 mg/L	5.21 mg/L	1
February 2016	1.68 mg/L	5.98 mg/L	1
March 2016	1.68 mg/L	6.01 mg/L	1
April 2016	1.68 mg/L	4.89 mg/L	1
May 2016	1.68 mg/L	2.74 mg/L	1
June 2016	1.68 mg/L	1.89 mg/L	1
July 2016	1.68 mg/L	5.71 mg/L	1
August 2016	1.68 mg/L	3.8 mg/L	1
September 2016	1.68 mg/L	2.09 mg/L	1
October 2016	1.68 mg/L	3 mg/L	1
November 2016	1.68 mg/L	4.62 mg/L	1
December 2016	1.68 mg/L	3.47 mg/L	1
January 2017	1.68 mg/L	1.93 mg/L	1
February 2017	1.68 mg/L	2.45 mg/L	1
March 2017	1.68 mg/L	4.31 mg/L	1
June 2017	1.68 mg/L	4.78 mg/L	1

2.24. Sections I.B, Table 1 and I.D of the Permit prohibit the discharge of pollutants from the Facility in which the maximum daily load of ammonia exceeds 8.4 pounds of nitrogen per day on and after October 1, 2013. Respondent violated this permit condition 32 times between October 2013 through June 2017, for 32 violations, as follows:

Month of Violation	Permit Limit	Value Reported	Number of Violations
October 2013	8.4 lbs/day	13.26 lbs/day	1
January 2014	8.4 lbs/day	17.01 lbs/day	1
February 2014	8.4 lbs/day	20.28 lbs/day	1
March 2014	8.4 lbs/day	25.55 lbs/day	1
April 2014	8.4 lbs/day	90.86 lbs/day	1
May 2014	8.4 lbs/day	38.96 lbs/day	1
June 2014	8.4 lbs/day	33.17 lbs/day	1
July 2014	8.4 lbs/day	22.08 lbs/day	1

Month of Violation	Permit Limit	Value Reported	Number of Violations
August 2014	8.4 lbs/day	29.81 lbs/day	1
September 2014	8.4 lbs/day	28.21 lbs/day	1
October 2014	8.4 lbs/day	9.37 lbs/day	1
January 2015	8.4 lbs/day	18.88 lbs/day	1
February 2015	8.4 lbs/day	12.61 lbs/day	1
March 2015	8.4 lbs/day	13.73 lbs/day	1
April 2015	8.4 lbs/day	118.64 lbs/day	1
May 2015	8.4 lbs/day	11.1 lbs/day	1
June 2015	8.4 lbs/day	13.63 lbs/day	1
December 2015	8.4 lbs/day	15.46 lbs/day	1
January 2016	8.4 lbs/day	13.91 lbs/day	1
February 2016	8.4 lbs/day	16.84 lbs/day	1
March 2016	8.4 lbs/day	16.13 lbs/day	1
April 2016	8.4 lbs/day	14.36 lbs/day	1
May 2016	8.4 lbs/day	15.46 lbs/day	1
June 2016	8.4 lbs/day	12.88 lbs/day	1
July 2016	8.4 lbs/day	21.6 lbs/day	1
August 2016	8.4 lbs/day	10.07 lbs/day	1
November 2016	8.4 lbs/day	38.53 lbs/day	1
December 2016	8.4 lbs/day	28.92 lbs/day	1
January 2017	8.4 lbs/day	16.10 lbs/day	1
February 2017	8.4 lbs/day	20.40 lbs/day	1
March 2017	8.4 lbs/day	35.92 lbs/day	1
June 2017	8.4 lbs/day	39.89 lbs/day	1

III. COMPLIANCE ORDER

3.1 Respondent admits the jurisdictional allegations contained in this Order.

Respondent neither admits nor denies the specific factual findings and conclusions contained in this Order.

3.2 Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that EPA may issue a compliance order when EPA finds that a person is in violation of Section 301 of the CWA, 33 U.S.C. § 1311, or in violation of any permit condition or limitation in an NPDES permit.

3.3 Based upon the foregoing Findings and Conclusions, and pursuant to Sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), it is AGREED and ORDERED as follows:

3.4 Within 12 months of the effective date of this Order, Respondent must identify the modifications and corrective actions needed at the Facility to achieve compliance with the effluent limitations in the Permit and provide written notification to EPA of the identified modifications and corrective actions.

3.5 Within 24 months of the effective date of this Order, Respondent must complete construction of any modifications to the Facility and implementation of any corrective actions and provide written notification to EPA.

3.6 Within 24 months of the effective date of this Order, Respondent must achieve compliance with the effluent limitations in the Permit and provide written notification to the EPA Compliance Officer that Respondent has achieved compliance with the effluent limitations.

3.7 ***Failure to comply:*** Failure to timely and appropriately implement to EPA's satisfaction any element of the requirements of this Order will be deemed a violation of this Order and the CWA. In the event Respondent is unable to comply with the requirements of this Order, Respondent must, within 10 days of becoming aware of such inability, provide a written notification to EPA containing the following information:

3.7.1. A summary of the specific reasons why Respondent is unable to comply with the requirement;

3.7.2. A summary of all actions taken by Respondent or others that Respondent alleges demonstrate “good faith efforts” to comply with the requirement; and

3.7.3. The expected date and required activities by which Respondent will comply with the requirement.

3.8 ***Submittals:*** All submittals, correspondence, and other communications required under this Order will be sent to:

David Domingo
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
domingo.david@epa.gov

3.9 ***Confidential Business Information:*** Pursuant to 40 C.F.R. §§ 2.201-2.311, Respondent may assert a claim of confidential business information covering any portion of the submittals that is entitled to confidential treatment and which is not effluent data. Respondent must assert a claim in the manner described in 40 C.F.R. § 2.203(b), and describe the basis for the claim under the applicable regulation. Any material for which business confidentiality is claimed should be placed in a separate envelope labeled, “Confidential Business Information.” If Respondent fails to assert a claim, EPA may release the submitted information to the public without further notice. Special rules governing information obtained under the CWA appear in 40 C.F.R. § 2.302.

3.10 *Scope of Order:*

3.10.1. This Order is not and will not be construed to be a permit under the CWA, and nothing in this Order will be construed to relieve Respondent of applicable requirements of the Permit or the CWA. Nothing in this Order will be construed to relieve Respondent of applicable requirements of other federal, state or local laws.

3.10.2. This Order will not be construed to resolve any claims for administrative or civil penalties that are not set out in this Order and that may be assessed or sought by EPA or the United States.

3.10.3. This Order will not be construed to preempt or preclude in any way any future administrative order issued by EPA or judicial action brought by the United States. Nothing in this Order will be deemed to constitute a precedent by any party for any future administrative order, consent decree or civil action relating to the Facility.

3.10.4. No contract between Respondent and a contractor and/or a consultant, or failure to perform by a contractor and/or a consultant, will affect Respondent's obligation to comply with this Order.

3.10.5. This Order will in no way affect the rights of EPA or the United States against any person not a party to this Order.

3.11 ***Records:*** Upon EPA's request, Respondent will provide EPA access to all records and documentation related to the conditions at the Site and to results or data pertaining to activities conducted under this Order. Respondent will preserve and retain, and will instruct any consultant, contractors, or other persons acting on its behalf to preserve and retain, all records and documents relating to execution of this Order until Respondent receives EPA's provision of written notice of termination of this Order.

3.12 The provisions of this Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

3.13 The undersigned representative of Respondent certifies that he is authorized to enter into the terms and conditions of this Order and to bind Respondent to the terms and conditions of this document.

3.14 The above provisions are STIPULATED and AGREED upon by Respondent and EPA Region 10.

IV. EFFECTIVE DATE AND TERMINATION

4.1. This Order will take effect upon signature by EPA.

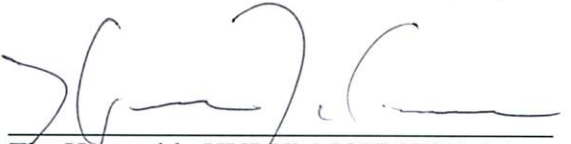
4.2. This Order will terminate when a written request by Respondent for termination of this Order is granted by EPA or upon EPA's provision of written notice of termination of this Order to Respondent.

V. SANCTIONS

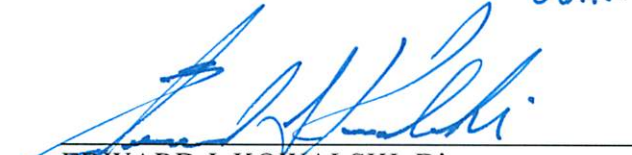
5.1. Failure to comply with any of the provisions of this Order may subject Respondent to (1) civil penalties of up to \$52,414 per day of violation pursuant to Section 309(d) of the CWA, (2) administrative penalties of up to \$20,965 per day for each violation pursuant to Section 309(g) of the CWA, or (3) civil action in federal court for injunctive relief pursuant to Section 309(b) of the CWA. CWA § 309(d), (g); 33 U.S.C. § 1319(d), (g); 40 C.F.R. part 19; 82 Fed.Reg. 3635.

5.2. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order or any other applicable requirements.

STIPULATED and AGREED this 29 day of November, 2017:


The Honorable HYRUM JOHNSON, Mayor
City of Driggs

It is so ORDERED and AGREED this 26th day of April, 2017:


EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement